

1 ROCHE FREEDMAN LLP
Katherine Eskovitz (CA Bar No. 255105)
2 1158 26th Street, Suite 175
Santa Monica, CA 90403
3 Email: keskovitz@rcflp.com
4 Telephone: (646) 791-6883

5 Attorneys for Plaintiff,
Ariel Abittan

6
7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA,**
9 **SAN JOSE DIVISION**

10
11 ARIEL ABITTAN,

12
13 PLAINTIFF,

14 v.

15 LILY CHAO (A/K/A TIFFANY CHEN, A/K/A
YUTING CHEN), DAMIEN DING (A/K/A
16 DAMIEN LEUNG, A/K/A TAO DING),
TEMUJIN LABS INC. (A DELAWARE
17 CORPORATION), AND TEMUJIN LABS INC.
(A CAYMAN CORPORATION),

18
19 DEFENDANTS,

20 and

21 EIAN LABS INC.,

22 NOMINAL DEFENDANT.
23
24
25
26
27
28

Case No. 5:20-CV-09340-NC

**STIPULATION SETTING SCHEDULE
AND EXTENDING TIME TO RESPOND
AND CONTINUING CASE
MANAGEMENT CONFERENCE AND
MODIFIED ORDER**

Judge: Nathanael Cousins

1 Pursuant to Civil Local Rules 6-1, 6-2, 16-2 and 7-12, Plaintiff Ariel Abittan (“Plaintiff”)
2 and Defendant Temujin Labs Inc. (Delaware) (“Temujin Delaware”), by and through their
3 respective counsel, stipulate as follows:

4 WHEREAS, Plaintiff filed his complaint on December 24, 2021;

5 WHEREAS, Plaintiff has been represented by the law firm of Alto Litigation, PC since
6 the inception of this case;

7 WHEREAS, Plaintiff is in the process of obtaining substitute counsel, which substitute
8 counsel, Plaintiff contends, will require time to get up to speed on this matter;

9 WHEREAS, Plaintiff recently purported to serve, or cure service as to, Temujin Labs
10 Inc. (Cayman) (“Temujin Cayman”);

11 WHEREAS, Plaintiff recently purported to serve the two individual defendants, who
12 have yet to appear in this action (together, the “Individual Defendants”);

13 WHEREAS, Temujin Cayman and the Individual Defendants intend to contest service;

14 WHEREAS, Plaintiff maintains that he has validly served Temujin Cayman and the
15 Individual Defendants;

16 WHEREAS, Temujin Delaware filed a motion to dismiss on April 9, 2021, with
17 Plaintiff’s opposition due April 23, 2021, and Temujin Delaware’s reply due April 30, 2021;

18 WHEREAS, pursuant to stipulation, the time for Temujin Cayman or the Individual
19 Defendants to respond to the complaint is currently April 30, 2021 (ECF No. 31);

20 WHEREAS, in responding to the complaint, Temujin Cayman and the Individual
21 Defendants seek to bifurcate their motions to dismiss, with motions related to service challenges
22 under Federal Rule of Civil Procedure 12(b)(5) being brought first, and any motions pursuant to
23 Rule 12(b)(6) to follow;

24 WHEREAS, Plaintiff has retained new counsel that first appeared in this action on April
25 20, 2021, with previous counsel having withdrawn on April 20, 2021;

26 WHEREAS, counsel for the parties have met and conferred and agree that, in the interest
27 of efficiency, and subject to the Court’s approval, Temujin Cayman and the Individual
28

Defendants may first file a motion to dismiss pursuant to Rule 12(b)(5) and thereafter, within 30 days, in the event service is deemed effective, file a motion to dismiss pursuant to Rule 12(b)(6);

WHEREAS, counsel for the parties also agree that certain case deadlines should be continued to accommodate Plaintiff's transition to new counsel and in light of the pending and upcoming motions to dismiss;

WHEREAS, in light of the foregoing, counsel for the parties further agree that it would promote judicial efficiency to continue the initial case management conference until after any motion(s) to dismiss are decided and thus that good cause exists to continue the April 28, 2021 initial case management conference and associated deadlines.

ACCORDINGLY, IT IS HEREBY STIPULATED, pursuant to Civil L.R. 7-12, by and between the undersigned counsel for the parties, that:

1. Pursuant to Civil L.R. 6-1(a): The time for Temujin Cayman and the Individual Defendants to answer, move, or otherwise respond to the Complaint is extended until May 28, 2021;
2. Pursuant to Civil L.R. 6-2:
 - a. Temujin Cayman and the Individual Defendants may bring motions under Fed. R. Civ. P. 12(b)(5) first, followed by motions under Fed. R. Civ. P. 12(b)(6) within 30 days in the event service is deemed effective;
 - b. The time for Plaintiff to oppose and Temujin Delaware to reply in response to Temujin Delaware's pending motion to dismiss is extended to May 21, 2021 and June 18, 2021, respectively;
3. Pursuant to Civil L.R. 16-2:
 - a. The initial case management conference scheduled for April 28, 2021 shall be vacated, along with any associated deadlines under the Federal Rules of Civil Procedure and Local Rules, to be rescheduled for a date that is 30 days after a ruling on Temujin Delaware's motion to dismiss or such other date as the Court finds appropriate; and
 - b. All associated ADR Multi-Option Program deadlines shall likewise be deferred;
4. Nothing herein shall hinder, waive, or otherwise prejudice the parties' respective positions on whether Plaintiff has validly served Temujin Cayman and the Individual Defendants or hinder, waive, or otherwise prejudice Plaintiff's ability to seek to cure any purported defects in such service.

1 Dated: April 21, 2021

ROCHE FREEDMAN LLP

2 By: /s/ Katherine Eskovitz
Katherine Eskovitz

3 Attorneys for Plaintiff Ariel Abittan

4
5 Dated: April 21, 2021

FENWICK & WEST LLP

6 By: /s/ Felix Lee
Felix Lee

7 Attorneys for Defendants

8
9 Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this stipulation.

10 Dated: April 21, 2021

By: /s/ Katherine Eskovitz
Katherine Eskovitz

11
12 ***

13 **MODIFIED ORDER**

14 The case management conference scheduled for April 28, 2021 is continued to
15 July 7, 2021, at 10:00 a.m., by telephone, with a case management statement due June 30, 2021.

16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 Dated: April 21, 2021

18 The Honorable Nathanael Cousins
United States Magistrate Judge

